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## **Flooding Recovery: Waiver of Act 250 Permitting Requirements Guidance**

This guidance provides information on the applicability and process for implementing [Addendum 5 to Amended and Restated Executive Order 03-23](#) (the Addendum). The Addendum waives Act 250 permitting requirements for emergency earth extraction, concrete, and asphalt operations for the rebuild of critical state or municipal infrastructure impacted by 2023 and 2024 flooding events.

### **Applicability**

1. To operate under the waiver provision of the Addendum, your operation must meet the following requirements:
  - ✓ involve earth extraction, concrete, or asphalt operations;
  - ✓ provide material for Vermont state and municipal infrastructure;
  - ✓ relate to the Severe Storm 2024 recovery (e.g., rebuild of roads);
  - ✓ return to pre-emergency operations upon expiration of the Governor's Emergency Declaration; and
  - ✓ return to pre-emergency site conditions (reclamation) by the first October 15<sup>th</sup> following expiration of the Governor's Emergency Declaration.
  
2. The Addendum allows your operation to:
  - ✓ Avoid compliance with existing Act 250 Land Use Permit conditions on the property including operating hours, noise and blasting, crushing, area, rate, depth, or volume of extraction, and related trucking limitations; and
  - ✓ Operate on permitted and unpermitted lands without a permit or permit amendment. This includes operations on existing permitted properties, dormant pits, abandoned pits, previously reclaimed sites, or pre-existing pits operating beyond historic limits.

### **Process**

3. To document your use of the waiver provided by the Addendum, upon commencement of operations or as soon as practicable thereafter, submit [Documentation Form: Severe Storm 2024 Recovery](#), to the LURB (email to [act250.general@vermont.gov](mailto:act250.general@vermont.gov)).
  
- \*Note:** Only fill out the form if you are not already authorized by existing law (e.g., you will not be operating consistent with a current permit, not operating at pre-existing levels, or operating on a property that would trigger the need for a permit).
  
4. Observe the following best practices to ensure that your operation will be able to return to pre-emergency operation requirements upon expiration of the Governor's Emergency Declaration, and pre-emergency conditions by the first October 15<sup>th</sup> following expiration of the Governor's Emergency Declaration:
  - Observe limits of disturbance and buffers to avoid sensitive areas such as wetlands, ponds, property boundaries, streams, and the seasonal high groundwater table;

- For instance, extraction into additional phases may be necessary, but clearing of areas beyond existing limits of disturbances may result in difficulty returning to pre-emergency conditions.
- Between October 15 and April 15, stabilize all inactive areas of disturbed earth in accordance with the “Requirements for Winter Construction” standards and specifications of the Vermont Department of Environmental Conservation’s [Low Risk Site Handbook for Erosion Prevention and Sediment Control \(February 2020\)](#);
- Be a good neighbor. Practice sensible dust and erosion prevention and sediment control measures; and
- Comply with existing Act 250 land use permit conditions to the fullest extent possible to facilitate your transition to pre-emergency conditions.

**Post-Emergency Standards/ Deadline:**

5. **Operations. Upon expiration of the Governor’s Emergency Declaration**, all permitted gravel pits, rock quarries, asphalt plant and concrete plant operations must come into full compliance with operational Act 250 permitting requirements. All operations, permitted and unpermitted, shall return to pre-emergency operations.
6. **Reclamation. By no later than by the first October 15<sup>th</sup> following expiration of the Governor’s Emergency Declaration**, all permitted and unpermitted operations shall meet the following standards for disturbed areas unless otherwise authorized by a permit:
  - **Sand or gravel extraction** sites must reclaim in accordance with the reclamation standards in USDA Natural Resources Conservation Service (NRCS) [Vegetating Vermont Sand and Gravel Pits](#).
  - **Rock extraction** sites must reclaim in accordance with the Reclamation Plan standards in the Vermont Geological Survey’s (VGS) [Practice for Review of Rock Extraction Activities Under Act 250 Criteria 9D and 9E](#).
  - **Asphalt or concrete** plants must be restored to their pre-emergency condition, with all soils stabilized and all associated material stockpiles, equipment, and infrastructure removed from the site, unless otherwise allowed under an existing permit.
7. **By no later than by the first November 15<sup>th</sup> following expiration of the Governor’s Emergency Declaration**, submit documentation (photos and a brief summary) of complete reclamation or site restoration to the LURB (email to [act250.general@vermont.gov](mailto:act250.general@vermont.gov)) to demonstrate compliance with the above standards (items 5 & 6). If operations did not exceed permitted areas of disturbance, photos are not necessary.

Failure to comply in accordance with the applicable standards could result in enforcement action.